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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.1433 OF 2004

The Maharashtra State Co-op.
Agri & Rural Development Bank Ltd. ... Petitioners

V/s.

Joint Registrar C.S. (Appea¦s)
Pune Division, Pune & Ors. ... Respondents

Mr.P.S. Dani for Petitioner
Mr.D.A. Patil, AGP, for Respondent No.1
Mr.S.N. Chandrachood for Respondent No.2

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **MARCH 2, 2006**

P.C.:

. The Petitioners have challenged the order of the Assistant Registrar refusing a recovery certificate under section 101 of the Maharashtra Cooperative Societies Act and the order in revision which confirms the order of the Assistant Registrar. The Assistant Registrar had initially refused to issue the certificate. That order was challenged by the Petitioners before the Appellate authority who remanded the matter to the Assistant Registrar. It was made expressly clear that the Assistant Registrar should seek clarification from the Government as to whether the interest should be levied at the rate of 12.5% as claimed by the Petitioner herein or at 10.5% as stated

by the Society. The Assistant Registrar has again refused the recovery certificate on the ground that the Petitioners could not claim a certificate for an amount which was inclusive of interest @12.5% when the agreed interest was 10.5%. This order was confirmed by Respondent No.1.

2. Both the Authorities below have erroneously rejected the application filed by the Petitioners for issuance of a recovery certificate. Since there is a recovery to be made, the certificate must follow, ordinarily. There is no dispute that interest @ 10.5% was the agreed interest payable on the loan by the borrower. In these circumstances, the matter is remanded to the Assistant Registrar for issuance of a certificate for recovery of the amounts due and payable to the Petitioners by Respondent No.2 at the rate of 10.5%.

3. However, it is made clear that the Bank is at liberty to adopt appropriate proceedings in order to recover the amount at the additional rate of interest claimed by it. Petition is disposed of accordingly.